

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DIANA OTZELBERGER,

Plaintiff,

v.

Case No.

PINNACLE RECOVERY, INC.,

Defendant.

NOTICE OF REMOVAL

Defendant, Pinnacle Recovery, Inc., by its attorneys, von Briesen & Roper, s.c., hereby gives notice of the removal of this civil action from the Circuit Court of Milwaukee County, Wisconsin, to the United States District Court for the Eastern District of Wisconsin. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441(a), 1446, and 1453. As grounds for removal, defendant states as follows:

1. On January 14, 2021, plaintiff, Diana Otzelberger commenced a civil action against defendant by filing a summons and complaint in the Circuit Court of Milwaukee County, Wisconsin (the “state court action”). The case was assigned Case No. 2021CV00240.

2. This is a civil action based, in part, on plaintiffs’ contention that defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”). This case is still pending in state court.

3. As such, removal is proper because this case involves a federal question pursuant to 28 U.S.C. § 1331—an alleged violation of the Fair Debt Collection Practices Act. The state law claims alleged by plaintiffs against defendant joined with the federal claims may be removed to this Court with the federal claims under the doctrine of supplemental jurisdiction pursuant to

28 U.S.C. § 1367 because the state law claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution. This entire suit is removable under 28 U.S.C. § 1441(a).

4. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is in this district.

5. Removal is timely pursuant to 28 U.S.C. § 1446(b) because defendant has filed its Notice of Removal within 30 days of receipt of plaintiffs' state-court complaint which was served on March 4, 2021.

6. Pursuant to U.S.C. § 1441(a), a copy of all process, pleadings, documents, and orders in this case have been attached as **Exhibit A**.

7. Pursuant to 28 U.S.C. § 1446(d), defendant has given written notice of the filing of this Notice of Removal to plaintiff and will file a copy of this Notice of Removal with the Clerk of the Circuit Court of Milwaukee County, Wisconsin. A copy of the Notice of Filing of Removal to be filed in the Circuit Court of Milwaukee County, Wisconsin is attached as **Exhibit B**. A file-stamped copy of the Notice of Filing of Removal filed by defendant in the Circuit Court of Milwaukee County, Wisconsin will be filed with this Court when received by defendant.

8. Plaintiff requested a jury trial in the state court matter.

9. By filing this Removal, defendant does not waive any rights, defenses, claims or arguments.

WHEREFORE, this Court has jurisdiction pursuant to 28 U.S.C. § 1331, based on the federal questions presented in plaintiffs' complaint, and removal pursuant to 28 U.S.C. §§ 1441(a), 1446, and 1453 is appropriate.

Dated this 5th day of April, 2021.

s/ Terry E. Johnson

Terry E. Johnson

Kevin M. Fetherston

von BRIESEN & ROPER, s.c.

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